



Order Filed on March 20, 2020
by Clerk
U.S. Bankruptcy Court
District of New Jersey

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

RABINOWITZ, LUBETKIN & TULLY, LLC

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Jay L. Lubetkin, Esq.

*Proposed Counsel to Jay L. Lubetkin,
Chapter 7 Trustee*

In Re:

VANESSA C. RUSSY,

Debtor.

Chapter 7


Case No. 20-11528 (VFP)

Hearing Date: March 17, 2020

ORDER (I) APPROVING SALE OF REAL PROPERTY LOCATED AT 862 LINCOLN AVENUE, MAYWOOD, NEW JERSEY FREE AND CLEAR OF LIENS, CLAIMS AND INTERESTS PURSUANT TO 11 U.S.C. § 363(B), (F), (H), AND (M) TO KENNETH KACMAR; AND (II) AUTHORIZING THE TRUSTEE TO SATISFY CLOSING COSTS, BROKER'S COMMISSIONS AND OUTSTANDING MORTGAGES AND REAL ESTATE TAXES FROM SALE PROCEEDS

The relief set forth on the following pages, numbered two (2) through (4), is hereby
ORDERED.

DATED: March 20, 2020



**Honorable Vincent F. Papalia
United States Bankruptcy Judge**

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Debtor: Vanessa C. Russy

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THIS MATTER having been opened to the Court by Rabinowitz, Lubetkin & Tully, LLC, proposed attorneys for Jay L. Lubetkin, (the "Trustee"), Trustee for the bankruptcy estate of Vanessa C. Russy (the "Debtor"), upon the filing by of a Notice of Motion, related Verified Application, and proposed form of Order seeking Bankruptcy Court approval of the sale of the Debtor's real property located at 862 Lincoln Avenue, Maywood, New Jersey (the "Property") to Kenneth Kacmar or such other higher and better offeror, free and clear of liens, claims, interests, and encumbrances, such to attach to the proceeds of sale, for a purchase price of \$510,000 with no contingencies whatsoever; and the Court having considered the Verified Application filed in support hereof; and the Court having concluded that the sale of the Debtor's Property is a sound exercise of the Trustee's business judgment given the pendency of this bankruptcy proceeding as a Chapter 7 matter in which the Trustee has a fiduciary duty to marshal and liquidate assets for the benefit of creditors; and the Court noting the assertion by M&T Bank that its allowed secured claim was in the amount of \$227,000; and the Court noting that the Property is also encumbered by the secured claim of New Jersey Home Keeper Loan Program in the amount of \$30,000 that the proposed purchase price under the Agreement of Sale to Kenneth Kacmar is \$510,000, such that consummation of the sale will generate excess proceeds over and above the secured creditors' claims for the benefit of the bankruptcy estate; and the Court noting no prior relationship between the Trustee and Kenneth Kacmar and the Trustee's Verified Application

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that the proposed Agreement of Sale was negotiated in good faith and at arm's-length; and the Court having considered any higher and better offers made at the hearing for the entry hereof; and good and sufficient cause existing for the making and entry of the within Order;

It is on this _____ day of _____, 2020

ORDERED that the Court expressly finds Kenneth Kacmar is a good faith purchaser in accordance with the provisions of in In re Abbotts Dairies of Pennsylvania, Inc., 788 F.2d 143 (3d Cir. 1986) who has agreed to pay "value" for the Debtor's Property; and it is further

ORDERED that the sale of the Debtor's Property by the Trustee in accordance with the provisions of the contract represents a sound exercise of the Trustee's good faith business judgment; and it is further

ORDERED that the purchase price under the proposed Agreement with Kenneth Kacmar represents "fair value" and "reasonable and appropriate value" for the Debtor's Property; and it is further

ORDERED that as a result, the Court hereby approves the Agreement between the Trustee as seller and Kenneth Kacmar as purchaser for the sale of the Debtor's Property pursuant to 11 U.S.C. § 363(b), (f), (h), and (m) free and clear of liens, claims, interests, and encumbrances, including the secured claims of M&T Bank and New Jersey Home Keeper Program, and tenancies of any tenants, such to attach to the proceeds of sale, and the Trustee is

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hereby authorized, directed, and empowered to consummate such sale transaction; and it is further

ORDERED, that the Closing Agent for the Buyer is authorized to make disbursements at time of Closing to the following:

- a. First Mortgage lien to M&T Bank;
- b. Second Mortgage lien to New Jersey Home Keeper Program;
- c. Real Estate Broker/Agent Commissions per the Contract of Sale and Order of Retention;
- d. Necessary adjustments for Real Property Taxes as of date of Closing;
- e. Cost of Closing chargeable to the Seller for filing, wire and delivery fees;
- f. Co-owner, Lee Russy an amount equal to one-half the net proceeds after payment of the above;
- g. All remaining funds shall then be delivered to Jay L Lubetkin as Chapter 7 Trustee c/o Jeffrey Cooper, Esq. attorney for the Trustee.

ORDERED that the Court hereby waives the fourteen (14) day stay of Federal Rule of Bankruptcy Procedure 6004(g) such that immediately upon entry of this Order, the proposed sale transaction may close.